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DIGEST OF WATER POLLUTION CONTROL LEGISLATION ... ARIZONA

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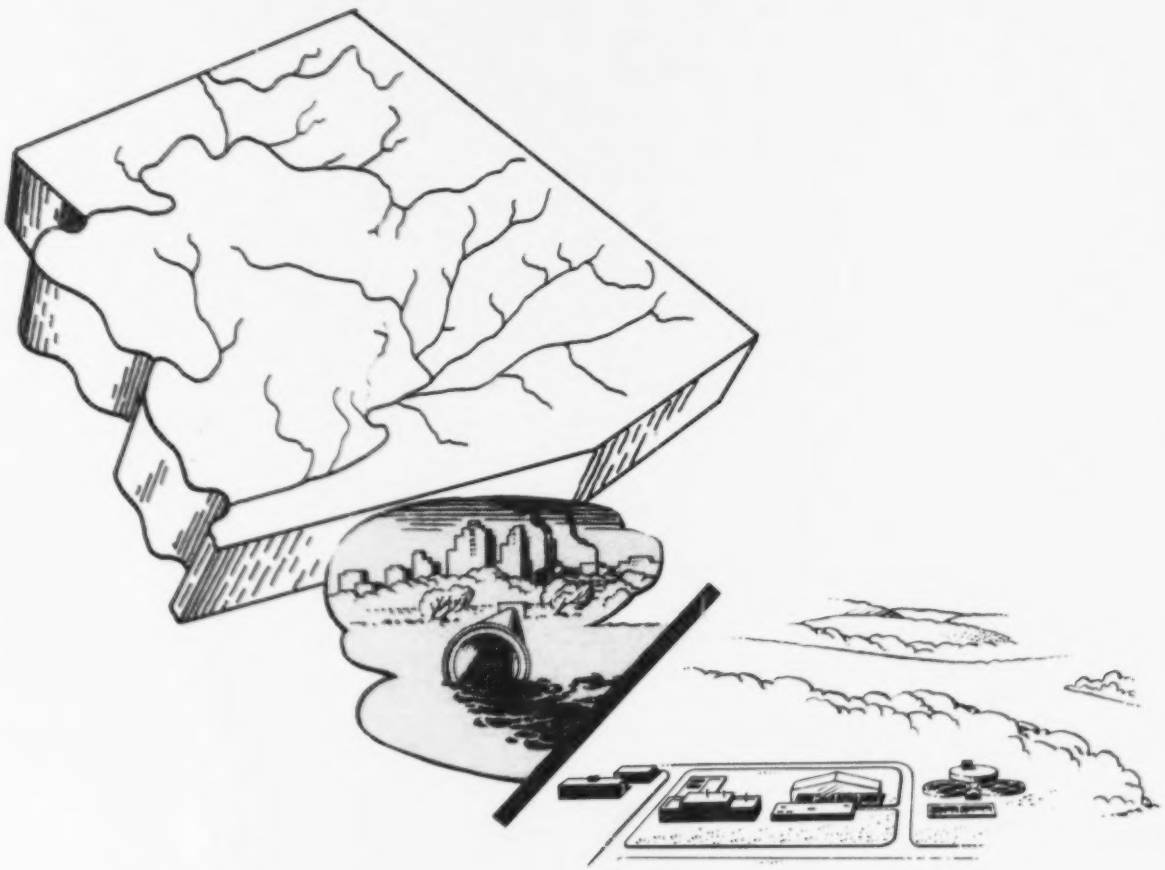

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U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Public Health Service

Section 3 of the Federal Water Pollution Control Act (33 U.S.C. 466b) directs the Public Health Service to "encourage the enactment of improved and, so far as practicable, uniform State laws relating to the prevention and control of water pollution."

This Digest is one of a series prepared by the Public Health Service as a service to the States and others interested in these objectives. Cooperation of State officials in the preparation of these digests is gratefully acknowledged.

September 1958

DIGEST OF WATER POLLUTION CONTROL LEGISLATION OF THE STATE OF ARIZONA

I. GENERAL STATEMENT

There is no comprehensive State water pollution control law in Arizona. The State agency which has the greatest control functions pertaining to water pollution is the State Department of Health.

The State Board of Health establishes the general policies of the Department of Health and considers any matter relating to the preservation and improvement of public health (Title 36, sec. 104). [1/] The Board is required to issue regulations regarding domestic and industrial water supply production, treatment, and distribution necessary to assure that all water sold or distributed to the public or used in the production, processing, handling, and transportation of food and drink is free from unwholesome poisonous, deleterious, or other foreign substances and filth. Its regulations provide for sewage collection, treatment, and disposal, industrial waste treatment and disposal, and the setting of minimum standards therefor. Plans and specifications for water supply, sewage disposal, and waste disposal treatment plants and related facilities must be approved by the State Department of Health before such plants or related facilities may be constructed. The Board also prescribes regulations for minimum standards of the quality of water available to the public or used in the production, processing, storing, or handling of food or drink and for the submission of samples; for inspection and certification of water supplies; and for abatement as public nuisances of premises, equipment, process, or device or water supply system which does not comply with minimum standards and regulations.

1/ Citations in this digest refer to the Arizona Revised Statutes Annotated (1956 ed.) unless otherwise noted.

The Arizona Game and Fish Commission consists of five members appointed by the Governor with advice and consent of the Senate (Title 17, sec. 201). The Commission is authorized to bring suit in the name of the State against any person, corporation, agency, or municipality to restrain or enjoin them from discharging or dumping into a stream or body of water in the State any poisonous, deleterious or polluting substance or waste which is or may be injurious to fish, fish life, or wildlife (Title 17, sec. 238).

Violation of the provisions of the Act, or of orders, rules and regulations of the Commission, where no other penalty is provided, is a misdemeanor (Title 17, sec. 315 (A)).

The State Land Commissioner is authorized to make rules, regulations, and orders requiring the drilling, casing and plugging of oil and gas wells in a manner to prevent (1) the intrusion of water into an oil or gas stratum from a separate stratum, and (2) the pollution of fresh water supplies by oil, gas, or salt water (Title 27, sec. 516).

IV. ADMINISTRATIVE ORGANIZATION

A. State Board of Health

1. Composition

The Board is composed of 5 members, appointed by the Governor with the advice and consent of the Senate. Two members of the Board must be licensed practitioners of medicine and surgery, one member must be a registered professional nurse with a public health background, and the other two members must be selected from persons interested in public health, one of whom may be a lay person. The Governor is an ex-officio member of the Board without voting rights (Title 36, sec. 102).

2. Powers and duties

The Board establishes the general policies of the State Department of Health; considers any matter relating to the preservation and im-

provement of public health, and advises the Commissioner thereon; and makes studies and investigations of the public health needs and activities of the State and reports its findings to the Governor and the Legislature (Title 36, sec. 104). The Board provides by regulation for the proper administration and enforcement of public health laws; issues general regulations relating to water supply, sewage control and waste control, except that its regulations governing treatment of industrial wastes and facilities do not apply to waste rock, mill tailings, or smelter slag. The Board issues measures reasonably necessary for detecting, reporting, preventing, and controlling communicable and preventable diseases; issues measures to assure that all food or drink sold or distributed for human consumption is free from unwholesome, poisonous or other foreign substances; issues measures prescribing minimum standards for the sanitary facilities and conditions to be maintained in any plant or premises in which food or drink is produced, processed or served and for the abatement as a public nuisance of any premises which does not comply with such standards (Title 36, sec. 105).

B. State Department of Health

1. Composition

The Department consists of the State Board of Health, the Commissioner of Public Health, and the Divisions of the Department (Title 36, sec. 132). The Commissioner is the executive officer of the Department (Title 36, sec. 136).

2. Powers and duties

The Commissioner administers and enforces the laws relating to health and sanitation and the rules of the Department and the regulations of the Board. He exercises general supervision over all matters relating to sanitation and health throughout the State. He may enter upon, examine and

survey any source and means of water supply, sewage disposal plant, sewerage system, public buildings, eating places, and other premises in which he believes there exists a violation of any health law or regulation of the State Board of Health. He prepares sanitary and public health regulations for consideration by the Board and submits to the Board recommendations for new legislation (Title 36, sec. 136). The Department supervises sanitary engineering facilities and projects within the State; makes and enforces regulations concerning plans or specifications for construction, improvement, alteration, or operation of public water supplies, public bathing places, and sewage systems, and disposal plants for treatment of sewage, industrial wastes, and other deleterious matter, gaseous, liquid, or solid, and requires that all such plans or specifications be first approved by the Department before any work thereunder is commenced, and inspects all such projects during the progress thereof and enforces compliance with approved plans and specifications (Title 36, sec. 132).

The Department promotes the development, maintenance and effectiveness of local health departments, and provides them with technical consultation and assistance and with financaal assistance. (Title 36, sec. 132).

3. Enforcement

The enforcement authority of the Department of Health is carried out by the Commissioner of Public Health who is charged with the duty of enforcing the rules of the Department and the regulations of the Board, the violation of which may amount to a public nuisance subject to abatement. In addition, anyone violating the statutory provisions relating to the State Department of Health or regulations adopted pursuant thereto is guilty of a separate offense for each violation and is punishable by a fine of not less than $25 nor more than $200, by imprisonment in the county jail for not more

than 30 days, or both. Each day the violation continues is a separate offense (Title 36, sec. 140).

III. MISCELLANEOUS STATUTORY PROVISIONS RELATING TO WATER POLLUTION

It is unlawful for a person:

1. To place the carcass of a dead animal, or offal from a slaughter pen, corral or butcher shop, into a stream, pond, lake or reservoir;

2. To place a water closet or privy, or the carcass of a dead animal or offal, in or upon the borders of a stream, pond, lake, or reservoir from which water is drawn for the supply of the inhabitants of a city, town or unorganized community;

3. To allow a water closet or privy, carcass of a dead animal or offal to remain in or upon the borders of a stream, pond, lake or reservoir, (from which water is drawn for the supply of inhabitants of a city, town, or unorganized community) within the boundaries of land owned or occupied by a person, so that offensive substance therefrom drains into the stream, pond, lake, or reservoir;

4. To keep livestock penned, corralled or housed on, over, or on the borders of a stream, pond, lake, or reservoir, used as a community water supply, so that the waters thereof become polluted;

5. To bathe in a stream, pond, lake or reservoir used as a community water supply;

6. To foul or pollute by any means other than those specified above, the water of a stream, pond, lake, or reservoir, used as a community water supply (Title 13, sec. 603(A)).

Violation of any of these provisions is a misdemeanor (Title 13, sec. 603(C)).

Any person who uses an explosive compound or a corrosive, narcotic poison or other deleterious substance for the purpose of taking, stunning, or killing fish is guilty of a misdemeanor, punishable by a fine of not less than $100 nor more than $300, by imprisonment in county jail for not less than 3 nor more than 6 months, or by both, and in addition is liable to a penalty of $50 for each fish so taken, destroyed, possessed, bought, sold, or offered for sale (Title 17, sec. 315 (B)).

Privies in labor camps must be located at least 125 feet from any source of domestic water, and labor camp drainage from kitchen, bath, and toilet must be disposed of in such a manner as to prevent fly and mosquito breeding and pollution of any water or food supply (Title 36, secs. 661, 671). Violation of these provisions is a misdemeanor punishable by a fine, imprisonment, or both (Title 36, sec. 675).

Poisoning a spring, well, or reservoir of water is punishable by imprisonment (Title 13, sec. 862).

The pollution or contamination of any domestic waters is a public nuisance dangerous to public health (Title 36, sec. 501).

It is unlawful for the owner of any creek bed or any other person to deposit debris in such creek bed if it creates a flood hazard in an inhabited area. Violation is a misdemeanor punishable by a fine of not less than $25, by imprisonment in the county jail for not less than 10 days, or both (Title 45, sec. 2341).

Anyone who wilfully or wantonly and without the consent of the owner, cuts, breaks, injures or destroys a dam, canal, flume, aqueduct, pipeline, or other water conduit, levee, embankment, reservoir or other structure erected for a lawful or authorized purpose, or who in any way diverts or interferes with the flow or storage of water in, through or by means of any

such structures, or water conduits, is punishable by imprisonment in the State prison for not to exceed 5 years, or by imprisonment in the county jail for not less than 3 months, or by a fine of not less than $100 nor more than $500, or by both such fine and imprisonment (Title 13, sec. 892).

Anyone who digs up, cuts, opens, or destroys the pipe, or manhole of a sewer or sewer system used by the public, or in any manner impedes the flow of the sewage conducted thereby, or interferes with the operation of the sewer or sewer system, without permission of the person operating the sewer or sewer system, is guilty of a misdemeanor (Title 13, sec. 894).

Anything which is injurious to health, or is indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood, or by a considerable number of persons, or which unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, or basin or any public park, square, street or highway, is a public nuisance, and is no less a nuisance because the extent of the annoyance or damage inflicted is unequal (Title 13, sec. 601).

A person who maintains or commits a public nuisance, the acts and punishment for which are not otherwise prescribed is guilty of a misdemeanor. A person who wilfully omits to perform any legal duty relating to the removal of a public nuisance is guilty of a misdemeanor (Title 13, sec. 602).

Except when a different punishment is prescribed an offense declared to be a felony is punishable by imprisonment in the state prison for not to exceed 5 years, and an offense declared to be a misdemeanor is punishable by imprisonment in a county jail for not to exceed 6 months, by a fine not exceeding $300, or both (Title 13, sec. 1645).